

November 10, 2016

Marlene H. Dortch  
Secretary Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Notice of Ex Parte Communication, ET Docket No. 15-170; FCC 15-92

Dear Ms. Dortch:

On November 8, 2016, members and representatives of the National Customs Brokers and Forwarders Association of America (NCBFAA) (participants are listed at the end of this letter) participated in a conference call with:

Brian Butler  
Rashmi Doshi  
Jamison Prime  
Bruce Romano  
Jim Szeliga

The purpose of the meeting was to explain the details of the import process and the role of the customs broker in the supply chain. The attached slide was shared to guide the discussion.

During the call, the NCBFAA members discussed the proposed new language in 47 CFR 2.1203, which reads: "No radio frequency device may be imported into the Customs territory of the United States unless the importer or ultimate consignee, *or their designated customs broker, determines* that the device meets one of the conditions of entry set out in this section." [Emphasis added.]

We sought to clarify our position that it is inappropriate for the customs broker to be one of the parties legally responsible for determining that a device meets FCC requirements, since in our role of facilitating the paperwork for the customs entry, we do not have the necessary knowledge of the product's design or manufacture to render such a judgment.

We explained that, under the existing 2.1203, we can transmit a declaration with information from the importer, but that is fundamentally different than making a determination about the technical aspects of the product, as the proposed new language would have us do.

The FCC participants on the call suggested that *someone* needs to be responsible and, when customs brokers serve as the "importer-of-record," they would have to get the information necessary to make a determination.

We pointed out that the wording of the proposed 2.1203 does not, in fact, pin responsibility on the customs broker only when he serves as the "importer of record." Rather, according to the precise wording of the proposed revision, a customs broker is potentially one of the responsible parties for *any* shipment simply because he serves as the customs broker (whether or not he is the importer of record).

We recommended that the wording be clarified, so that legal responsibility for determining FCC compliance of a product does not attach to a customs broker merely acting in his role as a customs broker.

The NCBFAA also shared with the FCC definitions of "importer" from other government agencies involved in the import process, which may help the FCC as they address this issue (see attached).

NCBFAA Members who participated in the call:

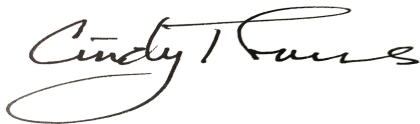
Barbara Adamson

Mike Lahar

Cindy Thomas

Joe Trulik

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Thomas". The signature is fluid and cursive, with the first name "Cindy" being more prominent and the last name "Thomas" following in a similar style.

Cindy Thomas

Kent & O'Connor, Washington Representative for NCBFAA